IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10921 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTILAL CHAGANLAL VANCHANI - Petitioner(s)

Versus

STATE OF GUJARAT - Respondent(s)

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Appearance :

MR PM THAKKAR for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/11/2005

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged a notification dated 7th July, 1993 passed by

the State Government by which the Lalpur Gram Panchayat was sought to be converted into Nagar Panchayat. While issuing notice on 15th October, 1993, learned Single Judge of this Court granted ad interim relief directing that the Gram Panchayat shall continue to function as Gram Panchayat till the next date of hearing i.e. 4/11/1993. This interim relief was continued from time to time finally by order dated 17/12/1994, learned Single Judge of this Court while issuing rule directed that the status quo shall be continued. Learned advocate for the petitioner submits that accordingly under the interim protection granted by this Court, the Gram Panchayat retained its character and the impugned notification was never made effective. She submits that till date the Gram Panchayat has not been converted into Nagar Panchayat. She further submits that by virtue of Section 7 of Gujarat Panchayats Act, 1993, it is open for the competent authority to recommend in local area comprising of village or a group of revenue villages, or hamlets forming part of a revenue village, for being specified a village under clause (g) of article 243 of the Constitution, if the population of such local area does not exist 15,000. She points out that in the old Act namely Gujarat Panchayats Act, 1961 requirement for

declaration of a specification of a village was 10,000 on the basis of which the main notification was issued.

2. In view of the above development when the impugned notification has remained under stay by this Court through out the pendency of the petition and the Gram Panchayat has never been effectively converted into Nagar Panchayat, it would not be appropriate to permit the State Government to act on such a notification. Needless to say if after going through due process of law, if the authorities find that a fresh notification is required to be issued considering the population of the village and other relevant circumstances, it would be open for the parties to under take such an exercise. The present petition is, therefore, disposed of in view of the above observations and directions. Rule is made absolute to the above limited extent. No order as to costs.

(Akil Kureshi, J.)

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